Calendar No. 757

98TH CONGRESS
2d Session

SENATE

REPORT
98-383

EMERGENCY WETLANDS RESOURCES ACT OF 1984

APRIL 6 (legislative day, MARCH 26), 1984.—Ordered to be printed

Filed under authority of the order of the Senate of APRIL 5 (legislative day, MARCH 26), 1984

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany S. 1329]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1329) to extend until October 1, 1993, the authority for appropriations to promote the conservation of migratory waterfowl and to offset or prevent the serious loss of wetlands and other essential habitat, and for other purposes, having considered the same, reports favorably thereon with amendments to the text and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 6, line 12 delete all of section 201 and renumber subsequent sections accordingly.

2. On page 12, strike out all of section 204, lines 1 through 8 and insert in lieu thereof the following new sections:

SEC. 203. (a) There is established in the Treasury of the United States a fund to be known as the Wetlands Conservation fund consisting of the amounts that are transferred to it under subsection (b).

(b) For each fiscal year beginning on October 1, 1984, and ending on the close of September 30, 1994, there shall be transferred $75,000,000 to the fund from the land and water conservation fund established under section 2 of the

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Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–5).

(c)(1) For each fiscal year referred to in subsection (b), there is authorized to be appropriated from the Wetlands Conservation Fund $75,000,000 to carry out sections 204 and 301.

(2) Of any sum appropriated for any fiscal year under paragraph (1)—

(A) such percentage of that sum (but not more than 66 and two-thirds per centum thereof) as is considered appropriate by the Secretary may be expended to carry out section 301; and

(B) the remainder of such sum shall be expended to carry out section 204.

SEC. 204. The Secretary is authorized to carry out Federal acquisitions that are consistent with the wetlands priority conservation plan established under section 302 of this Act: *Provided,* That for fiscal year 1985 and 1986 the Secretary shall carry out Federal wetlands acquisitions as directed in applicable appropriations Acts.

SEC. 205. Section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9(a)(2)) is amended by striking out "except migratory waterfowl areas which are authorized to be acquired by the Migratory Bird Conservation Act of 1929, as amended (16 U.S.C. 715–715s)".

PURPOSE OF THE MEASURE

The purpose of S. 1329 is to provide for the preservation of existing wetland areas by establishing a national program for acquisition of wetlands. As reported, S. 1329 would provide for funding by transferring $75 million per year for 10 fiscal years from the Land and Water Conservation Fund into a "Wetlands Conservation Fund". An authorization for appropriation of $75 million for each fiscal year would be made. Up to two-thirds of the appropriated funds could be allocated by the Secretary to States for the acquisition of wetlands according to plan prepared by the State. The prohibition in the Land and Water Conservation Fund Act on the use of Land and Water Conservation moneys to acquire migratory waterfowl areas which are authorized to be acquired by the Migratory Bird Conservation Act was removed by the Committee amendment.

SUMMARY OF MAJOR PROVISIONS

Title I of the bill as reported by the Committee on Energy and Natural Resources extends the authorization for appropriations for the Wetlands Loan Act from 1983 to 1993. This title also amends the Wetlands Loan Act so that funds appropriated to the migratory bird conservation fund will no longer be treated as an advance to the fund. Therefore, no repayment of previously appropriated funds will be required.

Title II raises the price of duck stamps to $10 per year for hunting years 1984 and 1985, to $12.50 per year for hunting years 1986 and 1987, and $15 per year for each hunting year thereafter. In addition, an amount equal to the amount of all import duties collect-

ed on arms and ammunition is to be paid quarterly into the migratory bird conservation fund. Title II establishes a Wetlands Conservation Fund and transfers $75 million per year for 10 years from the Land and Water Conservation Fund; authorizes appropriation of $75 million per year for 10 years from the Wetlands Conservation Fund. Up to two-thirds of such funds as may be appropriated could be allocated to the States for wetlands acquisition. Migratory waterfowl areas authorized under the Migratory Bird Conservation Fund Act would be added as a Federal purpose for acquisition under the Land and Water Conservation Fund Act.

Title III authorizes the Secretary of the Interior to provide up to $50 million, less 4 percent allowed for Federal administrative expenses, each year to States for purposes of wetlands conservation. The Secretary is also required to establish a national wetlands priority conservation plan.

Title IV of the bill directs the Fish and Wildlife Service to continue the national wetlands inventory project and authorizes the appropriation of up to a total of approximately $95 million for fiscal years 1984 through 1996. This title also requires the Secretary of the Interior to submit by September 30, 1985, a report to the Congress regarding wetlands losses in the United States and authorizes the appropriation of $1 million to carry out the provisions of this section.

Background and Need

A discussion of the need to highlight and accelerate wetlands conservation and the corresponding need for legislation can be found in Senate Report 98–349. The Committee concurs in the need to accelerate wetlands conservation and the need for legislation.

S. 1329 (Senate Report No. 98–349) was reported with amendments by the Committee on Environment and Public Works on February 6, 1984, and was referred to the Committee on Energy and Natural Resources for a period not to exceed 60 days to consider sections 201 and 204. These two sections have subject matter that comes under the legislative jurisdiction of the Committee on Energy and Natural Resources in that they amend the Land and Water Conservation Fund Act of 1965.

S. 1329 as reported by the Senate Committee on Environmental and Public Works established a new entrance/admission fee structure for units of the National Wildlife Refuge System. Currently, the policy for such fees is established by section 4 of the Land and Water Conservation Fund Act. Specifically, the Land and Water Conservation Fund Act prohibits the levying of entrance or admission fees except at designated units of the National Park System and National Recreation Areas administered by the Secretary of Agriculture. S. 1329 as reported by the Senate Committee on Environment and Public Works would have permitted the Secretary of the Interior to charge entrance and admission fees at designated units of the National Wildlife Refuge System. It also established the necessary criteria and administrative procedures to carry out such a program.

Secondly, S. 1329 as reported by the Senate Committee on Environment and Public Works would have transferred $75 million per

year for 10 years from the Land and Water Conservation Fund to the migratory bird conservation fund established under section 4 of the Act of March 16, 1934. $50 million would have been made available to the States on a matching basis for the purposes of wetlands conservation. The remaining $25 million was to be used by the Secretary to continue and expand the national wetlands inventory project. These funds were transferred to the migratory bird conservation fund and were not subject to appropriation.

Legislative History

S. 1329 was introduced on May 19, 1983; reported with amendments by the Senate Committee on Environment and Public Works on January 26, 1984; and referred to the Committee on Energy and Natural Resources for a period of 60 calendar days to consider sections 201 and 204. A hearing on sections 201 and 204 was held on March 21, 1984, before the Subcommittee on Public Lands and Reserved Water. The Administration does not object to enactment if amended.

At an open business session on April 4,1984, the Committee on Energy and Natural Resources ordered S. 1329 as amended favorably reported with additional amendments as described herein.

Committee Recommendation and Tabulation of Votes

The Senate Committee on Energy and Natural Resources in open business session on April 4, 1984, by a majority vote of a quorum present recommends that the Senate pass S. 1329 if amended as described herein:

The rollcall vote on reporting the measure was 15 yeas and 2 nays as follows:

YEAS	NAYS
Mr. McClure	Mr. Chafee
Mr. Hatfield *	Mr. Evans
Mr. Weicker *	
Mr. Domenici *	
Mr. Wallop	
Mr. Warner	
Mr. Murkowski	
Mr. Nickles	
Mr. Hecht	
Mr. Heinz *	
Mr. Johnston	
Mr. Ford	
Mr. Matsunaga *	
Mr. Melcher	
Mr. Bradley	

* Indicates voted by proxy.

Committee Amendments

S. 1329 was referred to the Committee on Energy and Natural Resources to consider sections 201 and 204 only.

The Committee made two amendments to those two sections and notes that if the Senate adopts these amendments a number of

technical and conforming amendments should be made to other sections of the bill that are outside the jurisdictional authority of the Committee on Energy and Natural Resources. These amendments are listed at the end of this section.

The first amendment adopted by the Committee deletes section 201 in its entirety. The Committee on Energy and Natural Resources did not agree with the approach taken by the Committee on Environment and Public Works.

Section 201 as reported by the Environment and Public Works Committee would authorize the Secretary of the Interior to charge entrance or admission fees at units of the National Wildlife Refuge System by establishing an entrance fee system somewhat parallel to the present fee system authorized by the Land and Water Conservation Fund Act, for national park system units and national recreation areas administered by the Secretary of Agriculture. However, the traditional general admission Golden Eagle and Golden Age "passports" would not be valid for admission to these units. The Committee on Energy and Natural Resources decided to retain the present entrance/admission fee structure as authorized under section 4 of the Land and Water Conservation Fund Act of 1965.

Recreation fees and fee legislation under the Land and Water Conservation Fund fall within the jurisdiction of the Energy and Natural Resources Committee. The Committee feels that any review should be made systemwide to insure equity and fairness and to properly assess benefits and costs. The Energy and Natural Resources Committee feels that to allow a valid migratory bird hunting and conservation stamp popularly known as a "duck stamp" to be used as a permit for entry would set a precedent of a "user fee" being used as an entrance fee.

The second Committee amendment deleted the provision that would transfer $75 million per year for 10 fiscal years from the Land and Water Conservation Fund to the migratory bird conservation fund and replaced it with a section 203 that establishes a wetlands conservation fund by transferring $75 million annually for 10 years from the Land and Water Conservation Fund. An authorization for appropriation of $75 million each year for 10 fiscal years from the wetlands conservation fund was also included.

Up to two-thirds of such funds as may be appropriated could be allocated by the Secretary to the States for wetlands acquisition.

Section 204 authorizes the Secretary of the Interior to carry out Federal wetlands acquisition consistant with the provisions in section 301(e) of S. 1329 as reported by the Committee on Environment and Public Works. (If the technical and conforming amendments as suggested by the Committee on Energy and Natural Resources are adopted the section would become section 302.)

The Committee recognizes that acquisition of Atchafalaya Basin Wetlands would be authorized by provisions of S. 1329 as reported. The Committee notes that the Atchafalaya Basin Wetlands are a high priority area for acquisition under the program and are a prime example of wetlands that should be acquired.

Section 205 would add the migratory waterfowl areas that are authorized under the Migratory Bird Conservation Fund Act as another purpose for Federal acquisition under the Land and Water

Conservation Fund. The Committee did not raise the authorized ceiling of $900 million per fiscal year of the Land and Water Conservation Fund. Any authorization for appropriation pursuant to sections 203, 204 and 205 are subject to the present ceilings.

SUGGESTED TECHNICAL AND CONFORMING AMENDMENTS

Beginning on page 12, line 12, strike out "Subsection (b)" and all that follows through page 13, line 24, "(d)(1)". On page 13, line 24, strike out "subsection" and insert in lieu thereof "section". Beginning on page 14, line 1, and all that follows through page 19, line 4, redesignate each subdivision accordingly, strike out each quotation mark that appears therein, and strike out "subsection" each place it appears and insert in lieu thereof "section".

On page 14, strike out line 15 and all that follows through "Payments for such purposes" and insert in lieu thereof "Payments for purposes of wetlands conservation".

On page 15, line 18, strike out "(e) of this section" and insert in lieu thereof "302 of this Act".

On page 18, lines 14–15 and 20, strike out "paragraph (3)" each place it appears and insert in lieu thereof "subsection (c)".

Beginning on page 18, line 23, strike out "remain" and all that follows through page 19, line 2, and insert in lieu thereof "be available, until expended, for expenditure under section 204."

On page 19, line 5, strike out "(e)" and insert in lieu thereof "SEC. 302."

On page 19, beginning on line 12, strike out "wetlands acquisition and the implementation of enhancement projects" and insert in lieu thereof "implementation of sections 204 and 301".

On page 19, lines 15, 17, 19, 22, and 23, strike out the quotation marks, and on line 24, strike out the quotation marks and final period.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, D.C. 20515

Rudolph G. Penner
Director

April 5, 1984

Honorable James A. McClure
Chairman
Committee on Energy and Natural
Resources
United States Senate
360 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

The Congressional Budget Office has prepared the attached cost estimate for S. 1329, the Emergency Wetlands Resources Act of 1984.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Rudy Penner

Rudolph G. Penner

cc: Honorable J. Bennett Johnston, Jr.
Ranking Minority Member

CONGRESSIONAL BUDGET OFFICE

COST ESTIMATE

April 5, 1984

1. BILL NUMBER: S. 1329

2. BILL TITLE: Emergency Wetlands Resources Act of 1984

3. BILL STATUS:

As ordered reported by the Senate Committee on Energy and Natural Resources, April 4, 1984.

4. BILL PURPOSE:

Title I of the bill extends the authorization for appropriations for the Wetlands Loan Act from 1983 to 1993. This title also amends the Wetlands Loan Act so that funds appropriated to the migratory bird conservation fund will no longer be treated as an advance to the fund. Therefore, no repayment of previously appropriated funds will be required.

Title II raises the price of duck stamps to $10 per year for hunting years 1984 and 1985, to $12.50 per year for hunting years 1986 and 1987, and $15 per year for each hunting year thereafter. In addition, an amount equal to the amount of all import duties collected on arms and ammunition is to be paid quarterly into the migratory bird conservation fund. Title II also provides that, for fiscal years 1985 through 1994, $75 million annually be transferred from the land and water conservation fund to a newly created wetlands conservation fund. The bill authorizes the appropriation of $75 million per year from this new fund to carry out this title.

Title III authorizes the Secretary of the Interior to provide up to $50 million, less 4 percent allowed for federal administrative expenses, each year to states for purposes of wetlands conservation. The Secretary is also required to establish a national wetlands priority conservation plan.

Title IV of the bill directs the Fish and Wildlife Service to continue the National Wetlands inventory project and authorizes the appropriation of up to a total of approximately $116 million for fiscal years 1984 through 1996. This title also requires the Secretary of the Interior to submit by September 30, 1985 a report to the Congress regarding wetlands losses in the United States and authorizes the appropriation of $1 million to carry out the provisions of this section.

5. ESTIMATED COST TO THE FEDERAL GOVERNMENT:

(by fiscal years, in millions of dollars)

	1984	1985	1986	1987	1988	1989
Title I						
Subject to Appropriation Action						
Estimated Authorization Level	---	5	5	5	5	5
Estimated Outlays	---	5	5	5	5	5
Direct Spending Authority						
Estimated Budget Authority	---	15	18	18	20	20
Estimated Outlays	---	15	18	18	20	20
Title II						
Estimated Revenues	---	4	8	8	11	11
Direct Spending Authority						
Estimated Budget Authority	---	14	18	18	21	21
Estimated Outlays	---	14	18	18	21	21
Subject to Appropriation Action						
Estimated Authorization Level	---	25	25	25	25	25
Estimated Outlays	---	23	25	25	25	25
Title III						
Subject to Appropriation Action						
Authorization Level	---	50	50	50	50	50
Estimated Outlays	---	45	50	50	50	50
Title IV						
Subject to Appropriation Action						
Authorization Level	15	16	15	15	8	8
Estimated Outlays	13	16	16	15	9	8
Total Budget Impact						
Estimated Authorization Level/ Budget Authority	15	125	131	131	129	129
Estimated Outlays	13	118	132	131	130	129
Estimated Revenues	---	4	8	8	11	11
Estimated Increase or Decrease (-) to the Deficit	13	114	124	123	119	118

The costs of this bill fall within budget function 300.

Basis of Estimate:

Title I of the bill extends the authorization for appropriations for the Wetlands Loan Act from 1983 through 1993. The current authorization level for this program is $200 million, of which approximately $154 million has been appropriated to date. Thus, the remaining authorization allowed over ten years is $46 million. For purposes of this estimate, it was assumed that the authorized amount would be appropriated in equal annual amounts of $4.6 million over the ten-year period between 1985 and 1994. This title also amends the Wetlands Loan Act by deleting the provision in current law which treats appropriations to the migratory bird conservation fund as advances. Under current law, repayments, composed of 75 percent of each year's duck stamp revenues, would be paid to the Treasury beginning in 1985. By forgiving the repayment of $154 million in previously appropriated advances, this bill would make available for spending the duck stamp revenues that would otherwise be earmarked for repayment to the Treasury. The net result of this provision is additional budget authority and outlays of approximately $15 million in 1985, increasing to $20 million by 1988.

Estimated revenues in Title II come from increasing the price of duck stamps as stated in the bill. Based on information from the U.S. Fish and Wildlife Service (USFWS), it is estimated that increasing the price of duck stamps will produce additional revenues of approximately $4 million per year in hunting year 1985, $8 million per year in hunting years 1986 and 1987 and $11 million in hunting year 1988 and thereafter. In addition, based on information from the Department of Commerce, approximately $10 million per year will be transferred to the migratory bird conservation fund from already existing import duties on arms and ammunition. This title also transfers $75 million per year from the land and water conservation fund to the wetlands conservation fund and authorizes the appropriation of this money from the newly created fund. Estimated budget authority and outlays under Title II in the table above derive from the provision of an additional $39-$46 million per year to the migratory bird conservation fund and the wetlands conservation fund. This estimated budget authority is the total of additional funds available for wetlands activities due to the additional revenue derived from increasing the price of duck stamps, the transfer of an amount equal to the import duties on arms and ammunition and the balance transferred from the land and water conservation fund not used for state grants.

For Title III, budget authority and outlays result from the estimated spending pattern for state grant programs. For Title IV, the authorization level is that stated in the bill. For purposes of Title IV, it is assumed that the full amounts authorized will be appropriated for each fiscal year. The outlays associated with the authorized amounts are based on similar programs administered by the USFWS.

6. ESTIMATED COST TO STATE AND LOCAL GOVERNMENTS:

A state will be eligible for grants under this bill when the Secretary of the Interior approves its wetlands conservation plan. To the extent that a state has already prepared its wetlands conservation plan, significant additional expenditures will not be required. If a state does not have a wetlands conservation plan, and wishes to participate in this program, expenses for the preparation of such a plan will be incurred. These costs cannot be estimated at the present time.

Eligible states would receive grants totaling approximately $47 million per year under this legislation. Fifty percent of the grants would be allocated on the basis of the ratio of each eligible state's expenditure of funds for wetlands conservation projects to the total funds expended by all eligible states for wetlands conservation projects. The remaining 50 percent will be apportioned by the Secretary of the Interior consistent with the national wetlands priority conservation plan. Funds apportioned to states cannot be used to fund more than 75 percent of an approved project. Therefore, a nonfederal contribution of 25 percent will be required, amounting to about $16 million per year.

7. ESTIMATE COMPARISON: None.

8. PREVIOUS CBO ESTIMATE:

On October 4, 1983, the Congressional Budget Office prepared a cost estimate for S. 1329, as ordered reported by the Senate Committee on Environment and Public Works. Since then additional appropriations have increased to $154 million the total amount appropriated as advances to the migratory bird conservation fund. Also in this version, the transfer of $75 million from the land and water conservation fund is subject to appropriations action.

9. ESTIMATE PREPARED BY: Mary Ann Curtin (226-2860)

10. ESTIMATE APPROVED BY:

James L. Blum
Assistant Director
for Budget Analysis

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee made the following evaluation of the regulatory impact which would be incurred in carrying out S. 1329.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program.

Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of S. 1329.

Executive Communications

The pertinent legislative reports and communications received by the Committee from the Department of the Interior setting forth Executive agency recommendations relating to S. 1329 are set forth below:

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

APR - 3 1984

ENERGY ... RESOURCES
RECEIVED
APR 4 ...

Honorable James A. McClure
Chairman, Committee on Energy and
Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This responds to your request for our views on sections 201 and 204 of S. 1329, the "Emergency Wetlands Resources Act," as reported by the Committee on Environment and Public Works.

We recommend enactment of S. 1329, if it is amended to address our concerns regarding the funding provisions of the bill.

This Administration is dedicated to the conservation of America's wetland resources, and in that regard we have searched, and are continuing to search, for new solutions. Last March we transmitted to Congress the "Protect Our Wetlands and Duck Resources Act" (POWDR). We are pleased that, in large part, the POWDR proposal has been able to serve as the foundation for S. 1329 and a similar House bill, H.R. 3082. All three bills would, among other provisions, authorize entrance fees at certain units of the National Wildlife Refuge System with deposit of the receipts into the migratory bird conservation fund and provide assistance to the States for wetlands conservation efforts.

The President's fiscal year 1985 budget request reflects our continuing commitment to take immediate action to stem the tide of wetlands losses. First, the President is requesting $20 million from the Land and Water Conservation Fund (LWCF) for Federal acquisition of wetlands. This concept is also included in S. 1329. Second, to initiate a State grants program for wetlands conservation similar to that contained in S. 1329, we are requesting $7.5 million in fiscal year 1985. Our budget request also includes $.8 million to undertake a study similar to that contained in S. 1329 to examine the role of Federal subsidies in wetlands destruction. Finally, like S. 1329, we are emphasizing the importance of the Department's wetland mapping effort by requesting $5.2 million, or a $1.5 million increase over fiscal year 1984 funding levels, to continue and improve the National Wetlands Inventory.

We do, however, have concerns with some of the provisions of S. 1329. We do not support either the automatic nature of the annual appropriation provided for in section 204 of the bill or the $75 million level of funding. In addition, we do not believe that placement of this funding for Federal wetlands acquisition and State wetlands grants in the migratory bird conservation fund is necessary. We would

prefer the provisions of H.R. 3082 that would eliminate the prohibition on use of the LWCF for acquisition of areas authorized by the Migratory Bird Conservation Act and provide a more comprehensive approach to our Federal wetlands acquisition program. Finally, we oppose the provision to earmark import duties on arms and ammunition. We have enclosed proposed amendments to S. 1329 to address these concerns.

Wetlands provide biological, economic, and recreational benefits to all Americans. They contribute to a commercial and recreational fishery harvest valued at several billion dollars annually, and support a major portion of the Nation's multi-million dollar annual fur harvest. Waterfowl depend heavily on wetlands for almost their entire existence. They also provide habitat for other wildlife, including many threatened and endangered species. Wetlands make open space recreation possible for millions of our citizens, providing activities such as boating and other water sports, bird-watching, nature study and photography, as well as hunting and fishing. They also provide savings in flood and erosion control, and help to supply the Nation's increasing demand for safe, pure water.

The loss of wetlands, then, is one of the most serious environmental problems facing the Nation today. A recent U.S. Fish and Wildlife Service study comparing the status of wetlands in the coterminous United States from the 1950's to the 1970's found a net loss of 9 million acres during this twenty-year period, or an area twice the size of the State of New Jersey. Furthermore, we are continuing to lose wetlands at the pace of nearly one-half million acres every year, an area comparable to half the State of Rhode Island. These statistics not only correlate with downward trends in waterfowl numbers, they translate into huge losses of all the natural resources and the varied recreation and economic benefits wetlands provide.

S. 1329 would attack this critical problem on many fronts, by providing for increased Federal acquisition and support for State wetlands conservation programs, and by recognizing that we must take aim at the root causes of wetlands destruction.

Specifically, section 201 would authorize the Secretary to require a valid duck stamp or other permit for entrance into certain designated units of the refuge system, the proceeds of which would be dedicated to the migratory bird conservation fund (MBCF). The MBCF provides funding for the acquisition of habitat important for migratory bird resources, particularly waterfowl, and is currently the primary source of funding for Federal wetlands acquisition. For years waterfowl hunters have borne the principal cost of this acquisition program through the purchase of duck stamps, and their contribution would be even greater under S. 1329 through a gradual rise in the price of the duck stamp. We support the concept contained in section 201 of asking others who enjoy the wildlife and outdoor recreational opportunities of our refuges to join in this partnership for conservation.

However, this is a problem of concern not just to waterfowl hunters and refuge visitors. As noted above, wetlands provide recreational benefits directly to millions of Americans and natural resources that touch virtually all of our lives. S. 1329 would recognize this country's great stake in wetlands conservation by

providing increased use of the LWCF for wetlands conservation efforts. Section 204 would transfer $75 million from the LWCF to the MBCF. Title III would authorize the Secretary to provide up to $50 million annually from the MBCF for grants to States for wetlands conservation. The remainder would be used for Federal acquisition of migratory bird habitat under the MBCF program.

We endorse increased use of the LWCF appropriation for wetlands conservation. However, we recommend that: (1) the provision for Federal acquisition of wetlands by the Fish and Wildlife Service be amended to authorize appropriations from the LWCF of $20 million in FY 1985; (2) the provision for State grants be amended to authorize appropriations from the LWCF of $7.5 million in FY 1985; and (3) that both provisions authorize of such sums as may be necessary for these programs in subsequent fiscal years.

In addition, placement of the LWCF appropriation in the MBCF is not necessary. We believe a more comprehensive approach to Federal wetlands acquisition is also needed. The MBCF provides funding for acquisition under two authorities. The Migratory Bird Conservation Act of 1929 (16 U.S.C. 715 et seq.) provides general authority for acquisition of habitat for migratory birds. Often, much of the acreage acquired under this authority is upland nesting and feeding habitat. The Migratory Bird Hunting and Conservation Stamp Act of 1934 (16 U.S.C. 718 et seq.) authorizes the acquisition of waterfowl production areas, small parcels located in the upper midwest region of the country. These are very important programs, and as discussed above, we support increasing the MBCF through entrance fees at designated refuges and a gradual increase in the price of the duck stamp. However, while we have acquired wetlands under these authorities, they are aimed primarily at the conservation of migratory bird habitat including uplands, not the conservation of wetlands per se or the other natural resource benefits that wetlands provide.

There are several other authorities under which wetlands have been acquired, but each has its own requirements and limitations; none provides the special mandate or flexibility that a comprehensive wetlands conservation program requires. The Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 et seq.) presently authorizes funding for Fish and Wildlife Service acquisition under (1) the Endangered Species Act; (2) the Refuge Recreation Act; (3) the Fish and Wildlife Act; and (4) special establishing legislation. Only about 14 percent of the funding appropriated from the LWCF to the Fish and Wildlife Service has been appropriated for wetlands conservation.

Areas acquired under the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) must be habitat for listed species. Only 5 percent of the money appropriated under this authorization has been used to acquire wetlands.

The Refuge Recreation Act (16 U.S.C. 460k et seq.) authorizes acquisition of lands adjacent to or within an established refuge area, primarily for recreational purposes; it does not authorize acquisition of new wetlands units. Since 1967 only 4,000 wetland acres have been acquired under this authority.

The Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) authorizes the Secretary of the Interior to conserve and protect fish and wildlife resources through a variety of means, including acquisition. It provides no explicit authority to establish a wetlands conservation program. Furthermore, by specific provision in the Land and Water Conservation Fund Act, the LWCF cannot be used to purchase areas under this authority that would qualify for acquisition under the Migratory Bird Conservation Act. This has precluded the use of LWCF funds for acquisition of most wetland areas currently identified by the Service and, thus, only 10 percent of the funding appropriated pursuant to this authority has been for wetlands acquisition.

A handful of refuges have been established by special legislation. Approximately one-third of the funding appropriated for refuges established pursuant to special legislation has been used for the preservation of wetland areas.

Other programs also touch on wetlands conservation. For instance, the Service's Federal aid programs, commonly known as the Pittman-Robertson and Dingell-Johnson programs, provide assistance to States for a broad range of management, research, and land acquisition activities. However, these programs must serve all species of wild birds, wild mammals and sport fish. Only 5 percent of the apportionments made to the States under these programs have been used to acquire wetlands.

We believe that the similar House bill, H.R. 3082, as reported from three House Committees, would provide a rational solution to this piecemeal approach. H.R. 3082 would eliminate the prohibition on use of the LWCF for acquisition of areas authorized by the Migratory Bird Conservation Act and provide us separate authority to acquire wetland habitat guided by a wetlands priority conservation plan developed by the Secretary in consultation with the States, similar to that described in section 301(e) of S. 1329. By weighing the loss of specific wetland types, as well as a wide range of their natural resource benefits, this program would be a balanced addition to our current efforts to preserve wetland wildlife habitat and related recreational opportunities. In this regard, we would prefer the provisions of H.R. 3082 that would provide a more comprehensive approach to this Federal acquisition program.

Likewise, while we strongly endorse the recognition that S. 1329 gives to the importance of State participation in resolving this problem, we believe the State wetlands grant program need not be administered out of the migratory bird conservation fund. Under S. 1329, grants would be available to pay 75 percent of wetlands conservation projects, including acquisition, preservation and enhancement. Half of the money would be apportioned on the basis of State expenditures for wetlands conservation in the most recent year of record, compared to other States. The other half would be disbursed by the Secretary for priority State projects in accordance with a wetlands priority conservation plan. Four percent is authorized for Federal administrative costs. In keeping with our belief that this program need not be placed in the MBCF, we also suggest that unobligated funds be used to assist other eligible States, rather than placed in the MBCF. With our recommended amendments, we believe this program would be an appropriate means of encouraging States to develop their own wetlands conservation programs and fostering Federal and State cooperation towards this goal.

In summary, the loss of our Nation's wetlands is an extremely serious problem. The Administration and the Congress have both taken significant steps toward realizing a successful wetlands conservation program. We believe that enactment of S. 1329 with the amendments we recommend would illustrate the very real benefits that cooperation between the Administration and the Congress can provide--to both our vital natural resources and the citizens of the Nation.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

G. Ray Arnett

ASSISTANT SECRETARY

Enclosure

RECOMMENDED DEPARTMENT OF THE INTERIOR AMENDMENTS TO S. 1329, AS REPORTED

On page 11, strike out lines 16 through 24.

On page 12, strike out lines 1-8 and insert in lieu thereof the following:

FEDERAL WETLANDS ACQUISITION

SEC. 203. (a) The Secretary of the Interior is authorized to carry out Federal wetlands acquisitions that are consistent with the wetlands priority conservation plan established under section 302 of this Act. Each area acquired by the Secretary under this section shall be included within the National Wildlife Refuge System.

(b) There is authorized to be appropriated from the Land and Water Conservation Fund $20 million in fiscal year 1985 and such sums as may be necessary in subsequent fiscal years through fiscal year 1994 to carry out the purposes of this section.

SEC. 204. Section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-9(a)(1)) is amended by striking out "except migratory waterfowl areas which are authorized to be acquired by the Migratory Bird Conservation Act of 1929, as amended (16 U.S.C. 715-715s)".

Beginning on page 12, line 12, strike out "Subsection (b)" and all that follows through ""(d)(1)" on page 13, line 24. On page 13, line 24, strike out "subsection" and insert in lieu thereof "section". Beginning on page 14, line 1, and all that follows through page 19, line 4, redesignate each subdivision accordingly, strike out each quotation mark that appears therein, and strike out the word "subsection" each place it appears and insert in lieu thereof "section".

On page 14, strike out line 15 and all that follows through "conservation." on line 19 and insert in lieu thereof the following:

(b) The Secretary is authorized to provide financial assistance to the States, for purposes of wetlands conservation.

On page 14, line 22, after "interest." add the following new sentence: "To carry out the purposes of this section there is authorized to be appropriated to the Secretary from the Land and Water Conservation Fund not to exceed $7,500,000 in fiscal year 1985 and such sums as may be necessary in subsequent fiscal years through fiscal year 1994."

On page 15, line 18, strike out "(e) of this section" and insert in lieu thereof "302 of this Act".

On page 18, lines 14-15 and 20, strike out "paragraph (3)" each place it appears and insert in lieu thereof "subsection (c)".

On page 18, line 19, strike out "for one additional fiscal year" and beginning on line 21, strike out "At" and all that follows through page 19, line 2.

On page 19, line 5, strike out ""(e)" and insert in lieu thereof "SEC. 302."

On page 19, beginning on line 12, strike out "wetlands acquisition and the implementation of enhancement projects" and insert in lieu thereof "implementation of sections 203 and 301".

On page 19, lines 15, 17, 19, 22, and 23, strike out the quotation marks, and on line 24, strike out the quotation marks and final period.

MINORITY VIEWS OF SENATOR CHAFEE

The amendment adopted by the Committee that would delete all of Section 201 of this bill is ill-advised. Section 201 authorizes the Secretary of the Interior to establish a reasonably priced admission fee at certain units of the National Wildlife Refuge System. People could enter designated refuges by purchasing a single visit permit or by displaying a valid Migratory Bird Hunting and Conservation Stamp (duck stamp).

The Energy Committee's amendment eliminates approximately $5 million per year in new revenues that otherwise would be available to the Migratory Bird Conservation Fund for acquisition of wetlands as additions to the National Wildlife Refuge System. Roughly five thousand fewer refuge and wetland acres will be purchased each year if this amendment is adopted by Congress. In addition, the amendment results in excluding from the universe of people who directly contribute to increased refuge acquisitions the vast majorty of those who derive direct benefits from the Nationai Wildlife Refuge System. I believe that the small number of Americans who buy duck stamps have shouldered this burden alone for long enough. Finally, the amendment, in my opinion, thwarts efforts to encourage all users of refuges to take a more personal interest in and responsibility for the care and management of the National Wildlife Refuge System.

I do not believe that the criticisms leveled at Section 201 of this bill are valid. The charge has been made that Section 201 would set a precedent for a user fee being used as an entry fee. But the duck stamp is not a user fee. The intent of the Migratory Bird Hunting Stamp Act was to establish a special fund to be used exclusively for wildlife conservation purposes and, since 1958, to provide revenues solely for the acquisition of refuges and waterfowl production areas. By changing the name of the stamp in 1976 from "Migratory Bird Hunting Stamp" to "Migratory Bird Hunting and Conservation Stamp", Congress intended to encourage non-waterfowl hunters to contribute to wetlands purchases. This underscores my point that the stamp is not a user fee. The stamp is, like the single visit fees proposed in Section 201 of this bill, a means of raising revenues for refuge and wetlands acquisition.

Nor is any precedent established that would advance the concept of a federal hunting license, as has been suggested. As I have indicated, the duck stamp is intended to be purchased, and is in fact purchased, by waterfowl hunters and non-hunters alike. The current effort by the Department of Interior to encourage wider participation in the duck stamp program on its 50th anniversary emphasizes my point that the duck stamp is not a user fee, and it is not a federal hunting license.

Allowing holders of a duck stamp to enter designated refuge units without paying a single visit fee in no way advances the con-

cept of a federal hunting license—if anything it diminishes that concept by broadening the base of people who buy the stamp. Instead, Section 201 of this bill recognizes that it is unfair to require duck stamp purchasers to also purchase single visit permits for entry to designated refuges. We should not ask these people to pay twice for increased refuge and wetlands acquisitions. We should ask others who enjoy the refuge system to help pay for its expansion.

Approximately 2 million duck stamps are sold annually. Some individual units of the National Wildlife Refuge System have nearly that number of visitors each year. For example, Chincoteague National Wildlife Refuge in Virginia, which was purchased with duck stamp receipts, had about 1.5 million visitors last year. The entire refuge system has between 25 and 30 million visitors each year. Only a very small percentage of these visitors are currently contributing directly to expansion of the refuge system by purchasing duck stamps. The concept that Section 201 of this bill advances is that those who derive direct benefits from the National Wildlife Refuge System should make some contribution to the system—either by purchasing a duck stamp as an annual pass or by purchasing single visit permits.

By giving the Secretary of Interior broad authority to designate refuge units where entrance fees will be charged and to establish reasonably priced fees for those units, Section 201 provides needed flexibility to ensure that (1) entrance fees are not established at refuge units where visitation is low or where access cannot be controlled effectively and (2) fees are set at a level that does not discourage public visitation of wildlife refuge units.

JOHN H. CHAFEE.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, S. 1329, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Pub. L. 88-578, title I, § 7, formerly § 6, Sept. 3, 1964, 78 Stat. 903; Pub. L. 90-401, § 1(c), July 15, 1968, 82 Stat. 355; renumbered Pub. L. 92-347, § 2, July 11, 1972, 86 Stat. 459, and amended Pub. L. 93-205, § 13(c), Dec. 28, 1973, 87 Stat. 902; Pub. L. 94-422, title I, § 101(4), Sept. 28, 1976, 90 Stat. 1317; Pub. L. 95-42, § 1(3)-(5), June 10, 1977, 91 Stat. 210, 211; Pub. L. 96-203, § 2, Mar. 10, 1980, 94 Stat. 81.

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ALLOCATION OF MONEYS FOR FEDERAL PURPOSES

SEC. 7. (a) Moneys appropriated from the fund for Federal purposes shall, unless otherwise allotted in the appropriation Act making them available, be allotted by the President to the following purposes and subpurposes:

(1) For the acquisition of land, waters, or interests in land or waters as follows:

NATIONAL PARK SYSTEM; RECREATION AREAS.—Within the exterior boundaries of areas of the National Park System now or hereafter authorized or established and of areas now or hereafter authorized to be administered by the Secretary of the Interior for outdoor recreation purposes.

NATIONAL FOREST SYSTEM.—Inholdings within (a) wilderness areas of the National Forest System, and (b) other areas of national forests as the boundaries of those forests exist on the effective date of this Act, or purchase units approved by the National Forest Reservation Commission subsequent to the date of this Act, all of which other areas are primarily of value for outdoor recreation purposes. *Provided,* That lands outside of but adjacent to an existing national forest boundary, not to exceed three thousand acres in the case of any one forest, which would comprise an integral part of a forest recreational management area may also be acquired with moneys appropriated from this fund: *Provided further,* That except for areas specifically authorized by Act of Congress, not more than 15 per centum of the acreage added to the National Forest System pursuant to this section shall be west of the 100th meridian.

NATIONAL WILDLIFE REFUGE SYSTEM.—Acquisition for (a) endangered species and threatened species authorized under sec-

tion 5(a) of the Endangered Species Act of 1973; (b) areas authorized by section 2 of the Act of September 28, 1962, as amended (16 U.S.C. 460k–1); (c) national wildlife refuge areas under section 7(a)(5) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(5)) [except migratory waterfowl areas which are authorized to be acquired by the Migratory Bird Conservation Act of 1929, as amended (16 U.S.C. 715–715s)] (d) any areas authorized for the National Wildlife Refuge System by specific Acts.

(2) For payment into miscellaneous receipts of the Treasury as a partial offset for those capital costs, if any, of Federal water development projects hereafter authorized to be constructed by or pursuant to an Act of Congress which are allocated to public recreation and the enhancement of fish and wildlife values and financed through appropriations to water resource agencies.

(3) Appropriations allotted for the acquisition of land, waters, or interests in land or waters as set forth under the headings "NATIONAL PARK SYSTEM; RECREATIONAL AREAS" and "NATIONAL FOREST SYSTEM" in paragraph (1) of this subsection shall be available therefor notwithstanding any statutory ceiling on such appropriations contained in any other provision of law enacted prior to the convening of the Ninety-fifth Congress or, in the case of national recreation areas, prior to the convening of the Ninety-sixth Congress; except that for any such area expenditures may not exceed a statutory ceiling during any one fiscal year by 10 per centum of such ceiling or $1,000,000, whichever is greater. The Secretary of the Interior shall, prior to the expenditure of funds which would cause a statutory ceiling to be exceeded by $1,000,000 or more, and with respect to each expenditure of $1,000,000 or more in excess of such a ceiling, provide written notice of such proposed expenditure not less than thirty calendar days in advance to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(b) ACQUISITION RESTRICTION.—Appropriations from the funds pursuant to this section shall not be used for acquisition unless such acquisition is otherwise authorized by law: *Provided, however,* That appropriations from the fund may be used for preacquisition work in instances where authorization is imminent and where substantial monetary savings could be realized.

(c) BOUNDARY CHANGES: DONATIONS.—Whenever the Secretary of the Interior determines that to do so will contribute to, and is necessary for, the proper preservation, protection, interpretation, or management of an area of the national park system, he may, following timely notice in writing to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate of his intention to do so, and by publication of a revised boundary map or other description in the Federal Register, (i) make minor revisions of the boundary of the area, and moneys appropriated from the fund shall be available for acquisition of any lands, waters, and interests therein added to the area by such boundary revision subject to such statutory limitations, if any, on methods of acquisition and appropriations thereof as may be specifically applicable to such area: *Provided, however,* That such authority shall apply only to those

boundaries established subsequent to January 1, 1965; and (ii) acquire by donation, purchase with donated funds, transfer from any other Federal agency, or exchange, lands, waters, or interests therein adjacent to such area, except that in exercising his authority under this clause (ii) the Secretary may not alienate property administered as part of the national park system in order to acquire lands by exchange, the Secretary may not acquire property without the consent of the owner, and the Secretary may acquire property owned by a State or political subdivision thereof only by donation. Prior to making a determination under this subsection, the Secretary shall consult with the duly elected governing body of the county, city, town, or other jurisdiction or jurisdictions having primary taxing authority over the land or interest to be acquired as to the impacts of such proposed action, and he shall also take such steps as he may deem appropriate to advance local public awareness of the proposed action. Lands, waters and interests therein acquired in accordance with this subsection shall be administered as part of the area to which they are added, subject to the laws and regulations applicable thereto.

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